FILED
July 30, 1996
Brenda Gilmore
Iron County Circuit
Clerk & Recorder

IN THE

CIRCUIT COURT OF IRON COUNTY

STATE OF MISSOURI

STATE OF MISSOURI ex rel. Jeremiah W. (Jay) Nixon and the Missouri Department of Natural Resources,	)	
Plaintiff	)	
v.	)	Case No. CV596-98CC
ASARCO, INC., MISSOURI LEAD DIVISION,	)	
Defendant.	)	

CONSENT DECREE

Come now ASARCO, Incorporated (hereafter ASARCO) and the Missouri Department of Natural Resources (hereafter MDNR), and state as follows:

1. The state of Missouri, through MDNR, for, and in consideration, of ASARCO's agreement to complete the implementation of control strategies upon the time schedules as more fully set forth in the Consent Decree below, and ASARCO for and in consideration of the state of Missouri's agreement to accept the implementation of said control strategies as sufficient, under current information and belief, to attain the federal and Missouri ambient air quality standard for lead and to accept the time table for completion of such control strategies as being as expeditious as practicable; Now Therefore, the state of Missouri and ASARCO have and do hereby agree to consent to the entry of the following Consent Decree.

2. To this end, MDNR and the Commission are preparing a State Implementation

Plan (SIP) revision to demonstrate attainment and maintenance of the national ambient air quality standard for lead in Arcadia and Liberty Townships in Iron County, Missouri. As part of the SIP revision, a lead emissions reduction program at ASARCO's Glover, Missouri facility is required. MDNR and ASARCO agree that the Court may enter the order set forth below, to be binding on the parties, providing for a lead emissions reduction program which ASARCO hereby agrees to undertake and complete on the schedule set forth in the Decree. The parties, by their signatures herero, acknowledge that they have read and understand the terms of this Decree and the order of the Court, and agree to be bound thereby.

This matter coming before the Court on the petition filed by the plaintiff state of Missouri , the Court having jurisdiction over the subject matter and the parties pursuant to §643.151, RSMo; and being fully advised in the premises;

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that ASARCO undertake and complete, at its Glover, Missouri facility, the following lead emission reduction program, on the schedule set forth below. These control measures and the associated schedule are the reasonably available control measures to be implemented to attain the national ambient air quality standard for lead (as required by Section 172 (c) of the Clean Air Act Amendments of 1990).

A. Projects Required as SIP Control Measures:

1. Concentrate Unloading Dock Elimination:

(a) Not later than July 1, 1996, and at all times thereafter, trucks delivering concentrate shall unload only at the unloading building. The unloading shall be conducted according to the procedures outlined in ASARCO's Work Practices Manual (Exhibit A, which, by this reference is incorporated herein).

(b) On or before July 1, 1996, the unpaved area surrounding the current concentrate unloading dock shall be chemically stabilized to eliminate lead emissions from this area resulting from wind erosion. This source is identified as 10002 in the Emission Inventory (Exhibit B, which, by this reference is incorporated herein). The stabilizing compound and schedule will be chosen by ASARCO and is subject to MDNR approval. A map showing the areas to be stabilized is attached as Exhibit C, and by this reference is incorporated herein.

(c) On or before October 1, 1996, paved roads shall be constructed that enable the concentrate trucks access to the unloading building. A map showing these roads is attached as Exhibit D, and by this reference is incorporated herein.

2. Control of Unloading Building Fugitive Emissions

(This source is identified as 20101 and 20102 in the Emission Inventory, Exhibit B.)

(a) On or before December 31, 1996, the unloading building shall be enclosed by installing siding and roll-up doors constructed to minimize air infiltration. These doors and all personnel access doors shall remain closed except as needed for employees or vehicles to enter or exit the building.

(b) On or before December 31, 1995, a modified sinter handling system shall be installed and operated. This system shall convey sinter using a partially enclosed conveyor and shall deposit it directly into the feed hoppers (at least 70% of the time). If the feed hoppers are full, sinter shall be deposited into the unloading bins.

3. Sinter Plant Process Gas Controls:

(a) On or before December 31, 1995, the ventilation gas currently exiting the Wheelabrator baghouse (originally source 20002 in the Emission Inventory, Exhibit B) shall be rerouted to the sinter machine intake.

(b) On or before December 31, 1995, the ventilation gas currently exiting the sinter plant wet scrubber (originally source 20003 in the Emission Inventory, Exhibit B) shall be rerouted to the sinter machine intake.

(c) On or before December 31, 1996, a new baghouse shall be installed and operated to service the sinter plant process gases. This baghouse originally controlled source 20001 (Emission Inventory, Exhibit B). The new baghouse shall be designed to control sources 20001, 20002, and 20003 (Emission Inventory, Exhibit B). The new baghouse shall be designed to meet a total suspended particulate specification of 0.01 grains per dry standard cubic foot of air. These gases shall be routed to the existing 186 meter main stack.

(d) Not later than December 31, 1996, and for all times thereafter, a continuous particulate monitor such as a Triboflow or MDNR approved equivalent, shall be installed and operated to monitor gases exiting the new baghouse. The continuous particulate monitor shall be designed to alert operators when particulate levels in the gases exiting the new baghouse are above those seen during a normal bag cleaning cycle. The output signals from this continuous particulate monitor shall be recorded during any stack tests.

The setpoint of the continuous particulate monitor shall be set and recalibrated as necessary as part of the quarterly ventilation system inspection required under the Work Practice Manual (Exhibit A), subject to MDNR's right to

observe review and approve such calibration of the monitors. The monitor shall be operated and properly maintained such that it is out of service for no more than 48 hours per each calendar quarter. ASARCO shall maintain all necessary spare parts to assure that an extended monitor outage does not occur. ASARCO shall provide MDNR with a quarterly report within 30 days of the end of each calendar quarter summarizing monitor setpoints, alarm incidents, and any corrective actions taken.

(e) Not later than December 31, 1996, and at all times thereafter, the amperage of the sinter process gas baghouse fan shall be continuously recorded. Under the supervision of MDNR (post construction), Method 2 tests shall be conducted (40 CFR Part 60, Appendix A) to measure actual process gas flowrate while varying sinter process gas baghouse fan amperage. Under the supervision of MDNR a relationship of fan amperage to actual flowrate shall be developed. The total ventilation of the building shall be designed to meet a 200 foot per minute nominal face velocity. A minimum fan amperage (corresponding to the design criteria) shall be determined. This minimum fan amperage shall be maintained except when systems are not being operated, during start-up or shutdown of the ventilation systems, during baghouse cleaning or repair, during cellar cleaning, or during maintenance, or during other conditions not representative of normal operating conditions. If any of these conditions apply, they shall be noted in the process logs. ASARCO shall provide MDNR with a quarterly report summarizing the amperage records within 30 days of the end of each calendar quarter.

In addition, ASARCO shall measure the sinter process gas flowrates at the pre-determined minimum fan amperage each calendar quarter. ASARCO shall

provide MDNR with a report summarizing the results from this test within 30 days of the end of each quarter. If, upon MDNR review, the minimum fan amperage no longer provides the designed flowrate, a new flowrate to amperage relationship shall be developed. This new relationship shall be developed in the same manner as the original, as set forth above.

4. Sinter Plant Ventilation and Fugitive Controls:

(These sources are identified as 20201 and 20202 in the Emission Inventory, Exhibit B.)

(a) On or before December 31, 1996, the sinter plant shall be enclosed by installing siding and doors constructed to minimize air infiltration. To minimize building leakage, ASARCO shall complete the siding of the existing sinter building using corrugated materials, and screws with neoprene washers. This enclosure project shall meet the criteria for a permanent total enclosure as set forth in the Environmental Protection Agency (EPA) draft guidelines for determining capture efficiency (September 30, 1993). Sinter plant doors shall remain closed except to allow for entering and exiting the building from the time of sinter machine start-up to 48 hours after sinter machine shut-down.

(b) On or before December 31, 1996, sinter plant ventilation gases shall be routed to the baghouse that currently serves the sinter machine process gases. This baghouse shall be designed to meet a total suspended particulate specification of 0.01 grains per dry standard cubic foot of air.

Not later than December 31, 1996, and at all times therafter, a continuous particulate monitor such as a Triboflow or MDNR approved equivalent, shall be

installed and operated to monitor gases exiting the baghouse. The continuous particulate monitor shall be designed to alert operators when particulate levels in the gases exiting the baghouse are above those seen during a normal bag cleaning cycle. The output signals from this continuous particulate monitor shall be recorded during any stack tests.

The setpoint of the continuous particulate monitor shall be set and recalibrated as necessary as part of the quarterly ventilation system inspection required under the Work Practices Manual (Exhibit A), subject to MDNR's right to observe, review, and approve such calibration of the monitors. The monitor shall be operated and properly maintained such that it is out of service for no more than 48 hours per each calendar quarter. ASARCO shall maintain all necessary spare parts to assure that an extended monitor outage does not occur. ASARCO shall provide MDNR with a quarterly report within 30 days of the end of each calendar quarter summarizing monitor setpoints, alarm incidents, and any corrective actions taken.

(c) Not later than December 31, 1996, and for all times thereafter, the sinter plant shall be ventilated to control fugitive emissions of lead from the building. A minimum ventilation rate of 100,000 actual cubic feet of air per minute shall be maintained except during start-ups or shutdowns, during baghouse cellar cleaning or repair, during maintenance, or during other conditions nonrepresentative of normal operation.. This ventilation rate shall be continuously measured at a point immediately before the gases enter the sinter plant ventilation baghouse. This minimum ventilation rate shall be maintained for 48 hours after sinter machine

shut-down. The ventilation of the building after enclosure shall be designed to maintain a 200 foot per minute face velocity at all sinter plant openings under normal operating conditions. ASARCO shall provide MDNR with a quarterly ventilation report within 30 days of the end of each calendar quarter. This report shall summarize the ventilation measurements, and explain episodes of low ventilation rates.

MDNR may conduct visual smoke tests post-construction to ensure adequate face velocities at all sinter building openings.

(d) On or before December 31, 1996, a new 70 meter tall, 2.11 meter diameter stack shall be installed and put into operation. This new stack shall service sinter plant ventilation gases originally identified as 20201 and 20202 in the Emission Inventory, Exhibit B.

(e) On or before June 30, 1996, 3360 conveyor belt, 3250 pan conveyor, and the corrugated rolls crusher shall be replaced by a conveyor belt directly from "R" hopper to the smooth rolls crusher.

(f) On or before September 30, 1994, the main feed conveyor shall be extended to the mixing drum. (This project shall eliminate a conveyor drop point.)

5. Blast Furnace Controls:

(Blast furnace fugitive emissions are identified as 30101 and 30104. Blast furnace baghouse emissions are identified as 30001 and dross kettle combustion stack emissions are identified as 30002 in the Emission Inventory, Exhibit B.)

(a) New and modified ventilation hoods shall be designed, installed, and put

into operation on or before the following dates:

(i) Slag Launder Hood, by December 31, 1996.

(ii) Emergency Slag Opening Hood, by December 31, 1996.

(iii) Lead Pot Hood Modifications, by December 31, 1996.

(iv) Dross Kettle Hood Modifications, by December 31, 1996.

(b) Ventilation rates to the furnace and dross kettle processes shall be required as follows:

(i) Not later than December 31, 1996, and at all times thereafter, not less than 60,000 actual cubic feet of air per minute from the top of the blast furnace shall be routed to the blast furnace baghouse.

(ii) Not later than December 31, 1996, and at all times therafter, not less than 22,000 actual cubic feet of air per minute (total) from the front of the blast furnace shall be routed to the sinter plant ventilation baghouse.

(iii) Not later than December 31, 1996, and at all times thereafter, not less than 15,000 actual cubic feet of air per minute from the receiving kettles shall be routed to the blast furnace baghouse.

These ventilation rates shall be measured at least quarterly, and maintained except during start-ups or shut-downs, during baghouse cellar cleaning or repair, during maintenance, when the source ventilated is not in operation, or during other conditions nonrepresentative of normal operations. ASARCO shall provide MDNR with a quarterly ventilation report within 30 days of the end of each calendar quarter. This report shall summarize the ventilation measurements, and explain episodes of low ventilation rates.

(c) Not later than December 31, 1996, and at all times thereafter, a continuous particulate monitor such as a Triboflow or MDNR approved equivalent, shall be installed and operated to monitor gases exiting the blast furnace baghouse. The continuous particulate monitor shall be designed to alert operators when particulate levels in the gases exiting the blast furnace baghouse are above those seen during a normal bag cleaning cycle. The output signals from this continuous particulate monitor shall be recorded during any stack tests.

The setpoint of the continuous particulate monitor shall be set and recalibrated as necessary as part of the quarterly ventilation system inspection required under the Work Practice Manual (Exhibit A), subject to MDNR's right to observe, review, and approve such calibration of the monitors. The monitor shall be operated and properly maintained such that it is out of service for no more than 48 hours per each calendar quarter. ASARCO shall maintain all necessary spare parts to assure that an extended monitor outage does not occur. ASARCO shall provide MDNR with a quarterly report within 30 days of the end of each calendar quarter summarizing monitor setpoints, alarm incidents, and any corrective actions taken.

6. In-Plant Roads, Dust Control:

(Emissions from in-plant roads are identified as sources 66001 to 69058 (Emission Inventory, Exhibit B).)

(a) Not later than April 1, 1996, and at all times thereafter, a water sprinkler system shall be installed and operated. When the ambient temperature is below 39°F, the sprinkler system will not operate. A map showing the coverage of the

sprinkler system is attached as Exhibit E, and, by this reference is incorporated herein.

(b) Not later than April 1, 1996, and at all times thereafter, a street sweeping program shall be implemented. Weather permitting, the sweeper shall be operated six hours per day, Monday through Friday, on all paved roadways within the plant that are not controlled by the water sprinkler system. The sweeper shall be operated to include those roadways controlled by the water sprinkler system when the ambient temperature is below 39°F. A map showing the area of sweeper coverage is attached as Exhibit E.

B. Enforcement Measures:

1. Stack Testing:

Compliance with the emission rates specified in 10 CSR 10-6.120 shall be demonstrated to MDNR by ASARCO, through tests conducted at ASARCO's expense, by an independent testing firm approved by MDNR. Lead emission rates shall be determined in accordance with 40 CFR Part 60 Appendix A, Method 12, or alternative methods as proposed by ASARCO and approved by MDNR, on a pounds per 24 hour basis. Testing shall be conducted before April 1, 1997, and thereafter, every four years. ASARCO shall notify MDNR of the proposed test dates and provide a copy of the test protocol to MDNR at least 30 days before testing. Test reports, including raw data, shall be submitted to MDNR within 60 working days of the completion of tests.

2. Notification of Completion Dates:

ASARCO shall provide MDNR with written notification of completion of

each project specified in Section A within 30 days of completion.

3. Limitation of Hours of Operation:

ASARCO shall limit the hours of operation of the following sources as specified below:

Source/Activity	Allowable Hours of Operation
(a) Blast Furnace Baghouse Cleanout	no more than 8 hours in any one day to occur between 7:00 a.m. and 6:00 p.m., traffic permitting.
(b) Sample Preparation Baghouse	no more than 8 hours in any one day to occur between 7:00 a.m. and 6:00 p.m.
(c) Laboratory Assay Vent	no more than 8 hours in any one day to occur between 7:00 a.m. and 6:00 p.m.

4. Process Weight Limits:

(a) Sinter plant production shall be limited to 202,000 tons of material charged per each calendar quarter. Sinter plant production shall be limited to 3,120 tons of material charged per day (7:00 a.m. to 7:00 a.m.).

(b) Blast furnace production shall be limited to 75,000 tons of lead-bearing material charged per each calendar quarter.

5. Work Practice Manual:

ASARCO shall, to the extent consistent with this order and 10 CSR 10-6.120, adhere to the "Work Practice Manual" (Exhibit A). Work practices in the Work Practice Manual and the other exhibits attached hereto may be modified only with the prior written approval of MDNR.

6. Record-Keeping:

ASARCO shall maintain the following records for MDNR review for a minimum of 5 years following the recording of information.

(a) ASARCO shall maintain a file that states for each shift, i.) sinter machine throughput, ii.) blast furnace throughput, and iii.) refined lead produced.

(b) ASARCO shall maintain a file of the date, time, findings, and corrective actions taken for all baghouse inspections scheduled in the Work Practice Manual, Exhibit A.

(c) ASARCO shall maintain a file that records any upset operating conditions or material spills that affect lead emissions.

(d) ASARCO shall maintain a file that includes the following information involving street sweeping and the road sprinkler system:

(i) Sweeper hours of operation;
(ii) Reasons for not conducting sweeping on any occasion;
(iii) Sweeper maintenance records, including dates of brush and filter replacement;
(iv) Reason for not operating the road sprinklers on any occasion.

(e) ASARCO shall maintain a file that records the weekly inspection of the condition of the doors and siding of the Unloading and Sinter Plant Buildings.

Pending resolution of any enforcement action initiated by MDNR, ASARCO shall maintain all pertinent records indefinitely.

7. MDNR and ASARCO shall continue monitoring the air for lead at all current monitor locations and frequencies and share all collected data. ASARCO shall continue to provide MDNR physical access to do air monitoring where monitors currently are sited. In addition, data collected from the current meteorological stations shall continue to be collected and shared. These data collection efforts shall continue until the Arcadia/Liberty Lead Nonattainment Area has been formally redesignated as an attainment area for lead by EPA.

8. On or before December 31, 1996, ASARCO shall install a fence that precludes public access to areas that the attainment demonstration modeling indicates will have lead concentrations above the national ambient air quality standard for lead. A map showing fencing is attached as Exhibit F, which, by this reference is incorporated herein.

9. Visible Emission Limitations.

A. The opacity of fugitive emissions from the Sinter Plant Building shall not exceed ten (10) percent for any three (3) minutes of any continuous one hour period, according to the proposed test method 203-B. Proposed test method 203-B is attached as Exhibit G, which by this reference is incorporated herein.

B. The opacity of fugitive emissions from the Unloading and Blast Furnace

Buildings shall be limited to an average of twenty (20) percent averaged over six (6) minutes, except when the slag granulation system is not operable, according to proposed test method 203-A. Proposed test method 203-A is attached as Exhibit G.

C. Projects required as Contingency Control Measures.

If the air quality data for the calendar quarter following the attainment date (January 6, 1997), or any quarter thereafter, exceeds the lead standard as specified in 40 CFR 50.12, MDNR shall notify the smelter owner/operator. Implementation of contingency measures shall begin within 30 days from receipt of MDNR's notice, according to the following schedule:

Contingency measure number 1 shall be implemented within 30 days from receipt of MDNR's original notice. If the lead standard is not achieved in the quarter following implementation of contingency measure number 1, then contingency measures numbers 2, 3 and 4 shall be implemented in the next quarter. If the lead standard is not achieved in the quarter following implementation of contingency measures numbers 2, 3, and 4, then contingency measures numbers 5, 6 and 7 shall be implemented.

Contingency Measures:

1. Truck Wash.

2. Expand In-Plant Road Sprinkler System.

3. Withdraw Unloading Building air for Sinter Plant Make-up air.

4. ASARCO shall meet the following stack emission limits:

Stack Names	Emissions Limitation (Lbs. per 24 hours)
Main	160.1
Ventilation Baghouse	108.9
Blast Furnace	71.5

Compliance with these contingency stack emission rates shall be demonstrated to MDNR by ASARCO through tests conducted at ASARCO's expense, by an independent testing firm approved by MDNR. Lead emission rates shall be determined in accordance with 40 CFR Part 60 Appendix A, Method 12, or alternative methods as proposed by ASARCO and approved by MDNR, on a pounds per 24 hour basis. Contingency stack testing shall be conducted within 30 days of notification from MDNR. ASARCO shall notify MDNR of the proposed test dates and provide a copy of the test protocol to MDNR at least 30 days before testing. Test reports, including raw data, shall be submitted to MDNR within 60 working days of the completion of tests.

5. Allow Lead Bullion Pots to Cool Before Dumping into Receiving Kettles.

6. Modify Refinery Skims Handling in Blast Furnace area.

7. Increase Efficiency of Sinter Plant Ventilation Baghouse.

ASARCO shall complete all of the planning and engineering work for the seven contingency measures on or before July 1, 1996. On or before July 1, 1996, ASARCO shall maintain current bids on the materials necessary to implement each of these contingency measures.

If ASARCO identifies and demonstrates to MDNR's satisfaction alternative control measure(s) that would achieve equal or greater air quality improvements than the Contingency Measure(s) identified above, MDNR agrees that ASARCO may substitute the new control(s) for the contingency measure(s) identified above. The substitute contingency measure shall be implemented under the same time frame as the original measure, unless both parties agree to a modified contingency schedule.

D. Stipulated Penalties

1. If ASARCO fails to complete construction of the control measures set out in this Decree by the dates specified, ASARCO shall pay stipulated penalties according to the following schedule. The penalties set forth below are per day penalties which are to be assessed beginning with the first day after the scheduled deadline date.

Period of Noncompliance	Penalty per Day of Violation
First through 30th day of noncompliance	-0-
31st through 60th day of noncompliance	$500.00
60th through 90th day of noncompliance	$1,000.00
Beyond 91st day of noncompliance	$1,500.00

2. If ASARCO fails to comply with any other requirement of this Decree, ASARCO shall pay stipulated penalties according to the following schedule. The penalties set forth below are per day penalties which are to be assessed beginning with the first day of violation after the scheduled deadline date.

Period of Noncompliance	Penalty per Day of Violation
First through 30th day of noncompliance	$500.00
31st through 60th day of noncompliance	$1,000.00
Beyond 61st day of noncompliance	$1,500.00

3. The penalties set forth above are per day penalties which are to be assessed beginning with the first day of violation after the scheduled deadline date. All penalties shall be paid within 45 days of the date of notification of noncompliance unless the penalty is challenged by ASARCO pursuant to the Dispute Resolution procedure outlined in Section E. If the penalty is challenged, it shall not be paid until 30 days after the Director's determination that ASARCO owes the stipulated penalty, and ASARCO has failed to use, or has exhausted, its rights to review the Director's Decision.

4. Stipulated penalties shall continue to accrue during the formal Dispute Resolution process or any appeal. In the event ASARCO prevails, stipulated penalties shall not be due or owed.

5. All penalties shall be paid by certified check made payable to the Iron County Treasurer as Trustee for the Iron County School Fund, and delivered to the Attorney General of Missouri, P.O. Box 899, Jefferson City, Missouri 65102-0899, Attention: Shelley A. Woods, Assistant Attorney General, or Designee.

6. The penalties set forth herein shall not apply in the event of a force majeure, as defined in this section. For the purposes of this Decree, force majeure shall be defined as any event arising from causes beyond the control of ASARCO and of any entity controlled by ASARCO that delays or interferes with the performance of any obligation under this Decree notwithstanding ASARCO's best efforts to avoid such an event. The requirement that ASARCO exercise "best efforts to avoid such an event" includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any potential force majeure event (1) as it is occurring, and (2) following the potential force majeure event such that the adverse effect or delay is minimized to the greatest extent practicable. Examples of events that are not force majeure events include, but are not limited to, increased costs or expenses of any work to be performed under this Decree or the financial difficulty of ASARCO to perform such work.

7. If any event occurs that is likely to delay or interfere with the performance of an obligation under this Decree, whether or not caused by a force majeure event, ASARCO shall notify MDNR by telephone within 72 hours if ASARCO knows that the event is likely to delay or interfere with performance of an obligation under this Decree. Within 5 business days thereafter, ASARCO shall provide in writing the reasons for the event; the anticipated duration; all actions taken or to be taken to minimize its effects; a schedule for implementation of any measures to be taken to mitigate the event; and a statement as to whether, in the opinion of ASARCO, such an

event may cause or contribute to the endangerment of public health, public welfare, or the environment. Failure to comply with the substance of the above requirements shall preclude ASARCO from asserting any claim of force majeure.

8. If MDNR agrees that the delay or anticipated delay is attributable to a force majeure, then the time for performance of any obligation under this Decree that is directly affected by the force majeure event shall be extended for a period of time not to exceed the actual duration of the delay caused by the force majeure event.

9. If MDNR does not agree that the delay or noncompliance has been or will be caused by a force majeure event, or does not agree with ASARCO on the length of any time extension, the issue shall be subject to the Dispute Resolution procedures set forth in Section E of this Decree. In any such proceeding, to qualify for force majeure defense ASARCO shall have the burden of demonstrating by a preponderance of the evidence that the delay or noncompliance has been or will be caused by a force majeure event, that its duration was or will be warranted under the circumstances, that ASARCO exercised or is exercising due diligence by using its best efforts to avoid and mitigate its effects, and that ASARCO complied with the requirements of Paragraph 7 above. Should ASARCO carry the burden set forth in this Paragraph 9, the delay or noncompliance at issue shall be deemed not to be a violation of the affected obligation of this Decree.

10. MDNR agrees that the stipulated penalties set forth herein shall be MDNR's sole and exclusive remedy for any alleged or actual noncompliance by ASARCO with any terms or requirements of this Decree, of the Work Practices Manual, or of 10 CSR 10-6.120(2)(A), and MDNR waives its right to seek additional penalties under § 643.151, RSMo or any other provision of law for any such noncompliance.

11. Upon the request of ASARCO, MDNR may in its unreviewable discretion impose a lesser penalty or no penalty at all for violations subject to stipulated penalties.

E. Dispute Resolution

Any dispute which arises with respect to the meaning, application or implementation of this Consent Decree shall in the first instance be the subject of informal negotiations between ASARCO and MDNR. Notice of a dispute shall be given by the party alleging the dispute, shall be addressed in writing to the MDNR Director, and copied to the opposing party. Such notice shall state the specific grounds for the dispute, including any supporting documentation, and the relief requested.

The MDNR and ASARCO shall have thirty (30) days from the receipt of the notice of the dispute to resolve the dispute. If agreement is reached, the resolution shall be reduced to writing and this Decree modified, if appropriate. If the MDNR and ASARCO are unable to reach complete agreement within the thirty-day period and this period is not extended in writing by mutual agreement of the parties, the matter will be submitted to the Director. The opposing party may file suggestions in opposition and include any documentation relevant to deciding the dispute. Said suggestions and documentation shall be submitted within fourteen days of submission of the matter to the Director. The MDNR Director will issue a written decision following his/her review of the record submitted by the parties.

The parties will then be entitled to judicial review pursuant to Section 536.140, RSMo. The filing of a notice of dispute shall not automatically suspend or postpone any parties' obligations under this Consent Decree with respect to the disputed issue. This provision shall not be construed to prevent either party from requesting a stay of the party's obligations under this Consent Decree, which request shall be filed at the same time as the notice of dispute.

ASARCO, Incorporated (for the Glover Lead Smelter)

BY: _____ DATE: 5/23/96

MISSOURI DEPARTMENT OF NATURAL RESOURCES

BY: _____ DATE: JUN 27 1996
David A. Shorr, Director

ATTORNEY GENERAL OF MISSOURI
Jeremiah W. (Jay) Nixon, Attorney General

BY: _____ DATE: May 30, 1996
Shelley A. Woods, Assistant Attorney General

ENTERED THIS 30th DAY OF July, 1996

_____ DATE: 7-30-96
Judge

STATE OF MISSOURI }
COUNTY OF IRON } I, Brenda Turner, Clerk of the Circuit Court in and for said County, hereby certify that the above is a full, true and correct copy of the original document as the same appears of record in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said court at my office in Ironton, Mo., this July 31, 1996

Brenda Turner

Brenda Turner, Circuit Clerk

By _____
Deputy Clerk

Elkins-Swyers Co., Springfield, Mo. - V-8547

Exhibit A

9.3 Manual of Work Practices

for Control of Lead Emissions

Table of Contents

1.0 Introduction

This manual of work practices has been revised in support of the revision of the State Implementation Plan (SIP) for the control of lead emissions in the Glover, Missouri area. The ASARCO Incorporated Primary Lead Smelter and Refinery is the principal source of lead emissions in this area. These work practices are intended to minimize fugitive emissions of lead.

These work practices reflect process and equipment changes that will be made be part of the selected control strategy to reduce overall lead emissions.

1.1 Regulatory Requirements

This Manual is written to comply with the Missouri Air conservation Rule 10 CSR 10-6.120(3)(B) which states:

> *The owner or operator shall prepare, submit for approval, and then implement a process and area-specific work practice manual that will apply to locations of fugitive lead emissions at the installation;*

and (3)(B)2 which requires that:

> *The manual shall be the method of determining compliance with the provisions of this subsection. Failure to adhere to the work practices in the manual shall be a violation of this rule.*
>
> *Any change in the work practices in the manual requires prior written approval from the MDNR director before any change becomes effective and goes into practice.*

In addition, this Manual is the mechanism which will be used to determine compliance with the applicable portions of the current Consent Decree as well as the lead rule (10 CSR 10-6.120).

1.2 Definitions

Accumulated materials:	Lead bearing particulate that has the potential to become reentrained.
Washdown:	To wet or reduce accumulated materials.
Wetting:	Addition of sufficient water to ensure no visible emissions immediately following washdown.

2.0 Description of Operations

The operations of the various departments of the ASARCO Glover Plant are described below.

2.1 Concentrate Unloading

The primary feedstock for the Glover Plant is lead concentrate from local mines. The concentrate is approximately 78% lead in the sulfide form. The concentrate is delivered by semi-trucks.

The semi-trucks enter the North end of the Plant and are weighed. The trucks then proceed to the North end of the Unloading Building where they dump the concentrate directly into a hopper.

Other non-lead-bearing feedstock materials are received in similar fashion by truck or railcar.

An overhead bucket crane in the Unloading Building transfers the concentrate and other feedstock materials in to hoppers that proportionately deposit material onto conveyors that enter the Sinter Plant.

2.2 Sinter Plant

The sulfur in the lead concentrate is thermally removed in the sintering process. The concentrate is mixed in proportion with other feedstock materials such as silica, iron ore, and limestone fluxes. These materials are crushed and mixed prior to being deposited on the sinter machine conveyor with returned sinter and blast furnace slag through the mixing drum.

An ignition layer enters the sinter machine and is ignited by gas-fired burners. The main layer is laid down over the ignition layer. This complete feed bed enters the updraft portion of the machine which draws air across the sinter bed from bottom to top to drive the thermal reaction. The off-gases are collected in a hood covering the machine and directed to a process gas baghouse.